IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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I.T.R. No.220-222 of 1999
Date of Decision:23.11.2006

Commissioner of Income-tax (Central), Ludhiana

.....Petitioner

Vs.

Mohan Bottling Co. (P) Ltd., S.Mohan Singh Building, Connaught Lane, New Delhi

.....Respondent

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. S.K.Garg Narwana, Advocate for the petitioner.

Mr. Akshay Bhan, Advocate for the respondent.

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ADARSH KUMAR GOEL, J.

The following question of law has been referred for opinion of this Court arising out of order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh in I.T.A. Nos.1097, 1098 and 1321/88 dated 21.5.1993 in respect of assessment years 1980-81 to 1982-83:-

> "Whether, on the facts and in the circumstances of the case, the ITAT was right in law in holding that the bottles and shells of the assessee were a `plant' and entitled to depreciation at 100% under the proviso to section 32(1)(ii) of the Income-tax Act, 1961?"

Learned counsel for the revenue does not dispute that issue referred to above has been decided against the revenue vide order of this Court dated 19.4.2006 in I.T.R. No.82 of 1988- **Commissioner of Income Tax, Patiala Vs. M/s Pure Drinks Pvt. Ltd.**

In view of the above, the question referred to above is answered against the revenue and in favour of the assessee.

(ADARSH KUMAR GOEL)
JUDGE

November 23, 2006 **(RAJESH BINDAL)**
renu **JUDGE**